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May 18, 2011
Presentation to the Michigan House Transportation Committee
Mark A. Griffin, President
Michigan Petroleum Association
Michigan Association of Convenience Stores

I have been asked to outline several areas that the members of MPA/MACS feel would strengthen the relationship between themselves and the State of Michigan with regards to the collection of taxes related to the sale of motor fuel. My presentation will highlight certain areas of concern we have regarding the payment, collection, auditing and implementation of the statute and regulations.

I will also make a brief presentation on the components that go into the price of a gallon of gasoline, and share some data regarding the average margin of a gasoline retailer based on certain historical assumptions and estimates.

MPA/MACS members are petroleum wholesalers and retailers located throughout Michigan. We are the customers of the major oil companies and as independent franchisees and/or independent businesses prepay billions of dollars in motor fuel, sales and cigarette taxes annually.

1. The Department of Treasury should reinstate the Motor Fuel Tax stakeholder's workgroup and support this group meeting bi-annually.
 - a. This would foster better communication between the State and an industry that pays approximately \$2.5 billion per year in motor fuel and cigarette taxes.
 - b. With meetings like this we could help Treasury identify areas of possible fraud, and Treasury could help industry identify "best practices".
 - c. This group has not met in the last 8 years or so.
2. The current implementation of the prepaid sales tax on gasoline is not working as well as we had hoped following the recent amendments.
 - a. There is too much lag time between when the State analyzes the prepaid amount and when it is implemented. When the cost of motor fuel rises, the retail price also rises. The prepaid amount severely lags behind the actual amount due.
 - b. It is also possible that some retailers either through ignorance or design may only be collecting the prepaid tax as it is passed along from their jobber/supplier.
 - c. This causes the possibility for widespread tax evasion, as market conditions change and certain schemes could be employed to avoid paying amounts in excess of the prepaid amount.
 - d. Conversely, in the past when the market conditions changed and the prepaid rate exceeded the market rate, Treasury moved slowly to refund the proper amounts to some MPA/MACS members.

3. We would like a prepaid sales tax on undyed diesel fuel too.
 - a. Currently undyed diesel fuel (road diesel) does not have prepaid sales tax on it.
 - b. This causes the possibility for tax evasion.
4. We would like Treasury to increase the number and frequency of audits of gas stations at the retail level.
 - a. It has become apparent to us that the number and frequency of audits at the retail station level is so low that there is the possibility of wide spread tax evasion.
 - b. There are many very simple ways that an unscrupulous retailer could evade taxes and we would like to see those loopholes closed to level the playing field.
 - c. We would like Treasury to improve its efforts with bi-lingual communications.
 - d. We do not have any actual firsthand knowledge of tax evasion, however, it has been estimated that the potential for tax evasion is significant.
 - e. We are concerned that the State is not holding up its end of the bargain to insure a level playing field for all law abiding businesses.
 - f. We know that at the wholesale level audits happened about every 18 months. Some retailers have gone many years without an audit.
5. We would like to see a replacement developed and implemented for the previous diesel discount program.
 - a. Because we tax undyed diesel fuel with both a motor fuel tax and a sales tax at the pump, we are at a distinct disadvantage in border areas.
 - b. Currently Indiana retailers have an approximately 20 cent a gallon sales advantage over our retailers.
 - c. Treasury testified last session that they estimated that over 100 million gallons of diesel fuel was being purchased outside of Michigan and yet consumed here. This equates to approximately 1 million customer visits that we miss out on.
 - d. Increased sales would create jobs, investment, etc.
 - e. Working together we could find a way to make this a win, win situation as Indiana has instead of sending business and customers across the border.

These are just a few of the suggestions that the membership of MPA/MACS would like to begin working with you, members of the Legislature and the Department of Treasury to insure a level playing field for our businesses and a strong, stable and potentially growing tax collection process. Certainly before we should consider any tax increases we should be certain we can collect what is currently required.

I look forward to working with you in the future.



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

ANDY DILLON
STATE TREASURER

REVENUE ADMINISTRATIVE BULLETIN 2011-1

Approved: April 20, 2011

SALES TAX - NOTICE OF CHANGE IN PREPAID GASOLINE SALES TAX RATE

(Replaces Revenue Administrative Bulletin 2010-4)

Pursuant to MCL 205.6a, a taxpayer may rely on a Revenue Administrative Bulletin issued by the Department of Treasury after September 30, 2006, and shall not be penalized for that reliance until the bulletin is revoked in writing. However, reliance by the taxpayer is limited to issues addressed in the bulletin for tax periods up to the effective date of an amendment to the law upon which the bulletin is based or for tax periods up to the date of a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired that overrules or modifies the law upon which the bulletin is based.

RAB 2011-1. This Revenue Administrative Bulletin (RAB) announces a change in the prepaid gasoline sales tax rate. This bulletin also identifies the calculation method used to make the rate determination. This RAB supersedes RAB 2010-4.

ISSUES

- I. What is the new rate?
- II. Why do we need to change rates?
- III. In the event of a rate change when will the change be announced?
- IV. What is the recent historical information on the rate?

CONCLUSIONS

- I. Effective June 1, 2011 the new prepaid gasoline sales tax rate is 17.6 cents per gallon.
- II. Section 6a(2) of the General Sales Tax Act was amended by Public Act 556 of 2008 to require review of the rate every 3 months, and to adjust the rate if the change in the statewide average retail price of a gallon of self-serve unleaded regular gasoline has been at least 10% since last changed.
- III. A Revenue Administrative Bulletin announcing the change will generally be issued the first day of the month preceding the effective date of the rate change.
- IV. a. Effective May 1, 1994 through July 31, 1999, the rate was established at 5.4 cents per gallon.
b. Effective August 1, 1999 through December 31, 1999, the rate was established at 4.6 cents per gallon.
c. Effective January 1, 2000 through August 31, 2000, the rate was established at 5.7 cents per gallon.

- d. Effective September 1, 2000 through February 28, 2001, the rate was established at 6.8 cents per gallon.
- e. Effective March 1, 2001 through February 28, 2002, the rate was established at 8.1 cents per gallon.
- f. Effective March 1, 2002 through July 31, 2002, the rate was established at 7.9 cents per gallon.
- g. Effective August 1, 2002 through December 31, 2002, the rate was established at 5.8 cents per gallon.
- h. Effective January 1, 2003 through January 31, 2004, the rate was established at 7.2 cents per gallon.
- i. Effective February 1, 2004 through March 31, 2005 the rate was established at 7.9 cents per gallon.
- j. Effective April 1, 2005 through April 30, 2006 the rate was established at 9.9 cents per gallon.
- k. Effective May 1, 2006 through April 30, 2007 the rate was established at 12.7 cents per gallon.
- l. Effective May 1, 2007 through March 31, 2008 the rate was established at 13.1 cents per gallon.
- m. Effective April 1, 2008 through September 30, 2008 the rate was established at 16.0 cents per gallon.
- n. Effective October 1, 2008 through February 28, 2009 the rate was established at 18.5 cents per gallon.
- o. Effective March 1, 2009 through May 31, 2009 the rate was established at 11.6 cents per gallon.
- p. Effective June 1, 2009 through August 31, 2009 the rate was established at 9.8 cents per gallon.
- q. Effective September 1, 2009 through May 31, 2010 the rate was established at 12.4 cents per gallon.
- r. Effective June 1, 2010 through May 31, 2011 the rate was established at 14.2 cents per gallon.

LAW & ANALYSIS

As provided in Section 6a of the General Sales Tax Act, at the time of purchase or shipment from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of gasoline shall prepay a portion of the sales tax at a rate determined and certified by the department. MCL 205.56a(1). The department must determine the prepaid sales tax rate every 3 months unless the change in the statewide average retail price of a gallon of self-serve unleaded regular gasoline has been less than 10% since the establishment of the rate of the prepayment then in effect. MCL 205.56a(2).

The prepaid sales tax rate is determined by starting with the statewide average retail price of a gallon of self-serve unleaded regular gasoline for the period being examined, subtracting the amounts of state motor fuel and sales taxes per gallon and then multiplying that net amount by 6 percent.

The most recent review examined the statewide average retail price of self-serve unleaded regular gasoline for the three month period commencing on January 1, 2011 and ending on

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March 31, 2011. It was determined that the prepaid sales tax rate on a gallon of unleaded regular gasoline will change to 17.6 cents per gallon pursuant to MCL 205.56a(2) effective June 1, 2011.

Questions may be directed to:
Michigan Department of Treasury
Technical Services Section
P.O. Box 30698
Lansing, MI 48909-8198
Telephone (517) 636-4357

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February 2011

MICHIGAN PETROLEUM ASSOCIATION
MPA/MACS
MICHIGAN ASSOCIATION of CONVENIENCE STORES



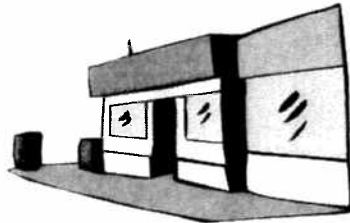
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The Michigan Petroleum Association (MPA) has been serving the state's independent petroleum marketers since 1934. MPA was incorporated by a group of petroleum distributors who believed that by promoting a cooperative spirit and encouraging group effort, marketers across the state could best achieve their common goals.

The Michigan Association of Convenience Stores (MACS) was established by MPA in 1986 to serve the interests of the state's c-store industry on the legislative front and in other matters of concern to c-store operators. In 1996,



truckstop operators, service station operators, and retail/wholesale providers of propane were invited to join MPA/MACS and benefit from the Association's services and expertise.



MPA/MACS counts 500 companies as members, with over 1,500 retail locations. Our members employ over 15,000 people statewide in all of Michigan's 83 Counties.

The "average" gas station/convenience store is a major partner for the State of Michigan when it comes to the collection and payment of State Taxes. Please keep in mind that **most of these taxes are prepaid to the State, not just passed along** and collected from the customer.

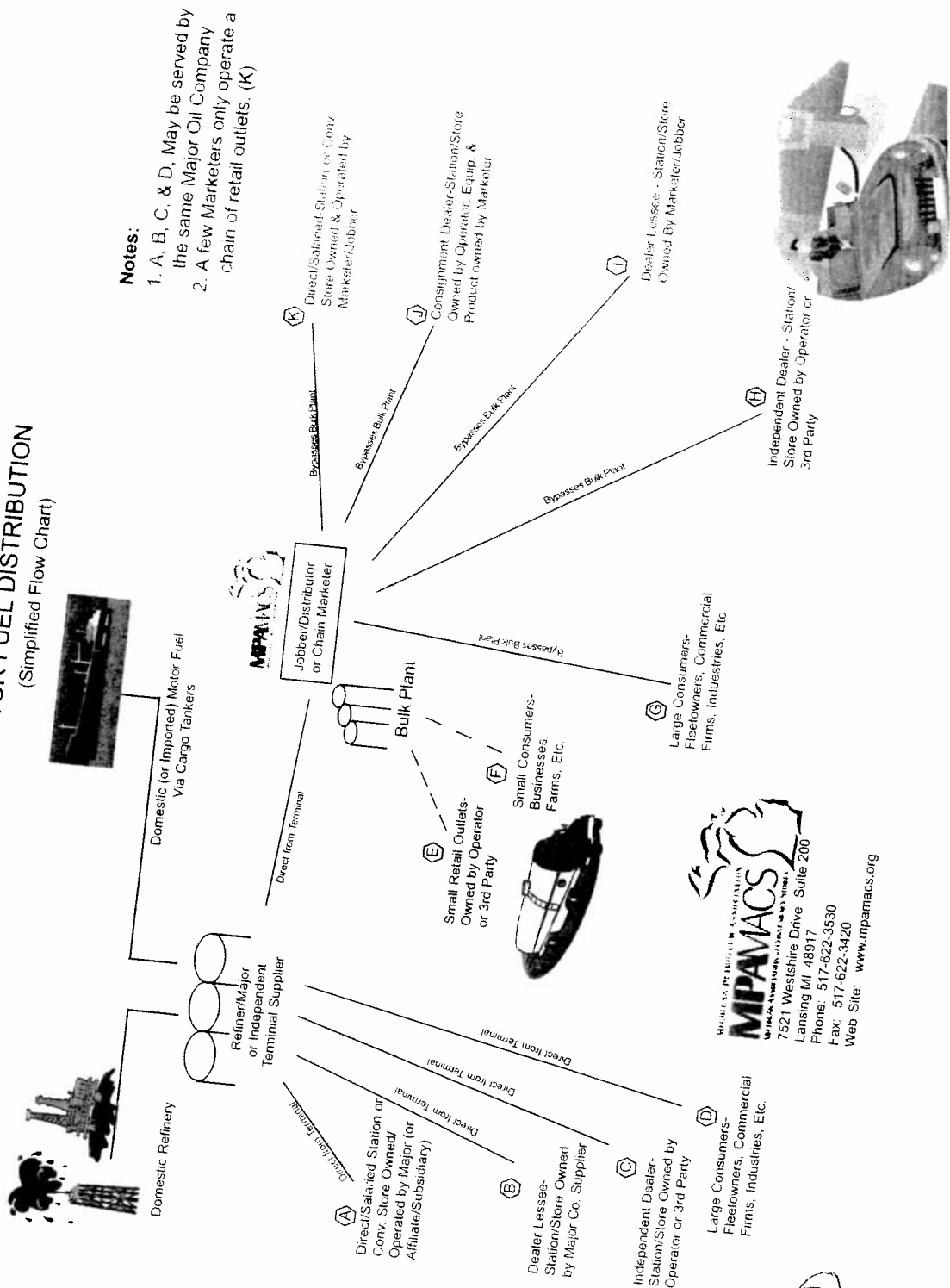
The average gas station/convenience store pays about \$140,500 per year in cigarette taxes. They pay \$25,500 per year in sales tax on those cigarettes. The average gas station/convenience store pays to the State about \$170,360 per year in gasoline motor fuel taxes and about \$31,930 per year in diesel motor fuel taxes. They also pay about \$141,670 and \$35,970 per year in sales tax on gasoline and diesel fuel respectively.



All told, the average gas station/convenience store pre-pays about **\$545,930 per year** and **as an industry we pay over \$2,675,057,000** to the State just on cigarette and motor fuel sales. Obviously this does not include sales or use taxes on other items sold in the store, bought for use in the store, income taxes, etc. We pre-pay an **additional \$1,062,896,000 to the Federal Government in gasoline and diesel motor fuel taxes. Total taxes on motor fuel exceed \$2,924,456,000 per year. 53.2 cents per gallon for gas/56.3 cents for diesel.**

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MOTOR FUEL DISTRIBUTION (Simplified Flow Chart)



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FUELING MICHIGAN: KEY FACTS AND FIGURES – March 11, 2011

- Michigan has approximately 4,800 licensed gas stations, about 175 wholesalers, and 1 refinery.
- We sold about 4.4 billion gallons of gasoline and 1.0 billion gallons of distillates (diesel) in 2010.
- We pre-paid about \$2.9 billion dollars in motor fuel taxes in 2010.
- The typical gas station sells about 915,000 gallons per year; 76,000 per month; 2,500 per day.
- Stations routinely buy fuel more frequently than in the past to hedge against the extreme volatility we see today. It is not unusual for fuel to be delivered C.O.D..
- It is not unusual for a station to sell gasoline below its net cost to attract customers in a hypercompetitive market.
- In 2009 typical gross margins for Michigan stations were 9 cents per gallon, while net margins were -1.8 cents per gallon.
- In 2010 typical gross margins for Michigan stations were 11.1 cents per gallon, while net margins were -0.7 cents per gallon.
- From 2009 to 2010, the average rack price increased 22.27%. So far in 2011, it has gone up an additional 24.2%.
- From 2009 to 2010, the average retail price increased 18.32%. So far in 2011, it has gone up an additional 20.1%.
- Crude oil prices increased 29.99% on average from 2009 to 2010. In 2011, they have gone up on average an additional 15.78%.
- Nationally, crude oil accounts for about 68% of the cost of a gallon of gasoline. Taxes are 14%, refining 7% and post refinery about 10%.
- In Michigan as of May 5th, 2011 taxes were averaging 13% of the cost of a gallon.
- The total tax on motor fuel in Michigan has risen on average from 49.6 cents per gallon to over 55.7 cents per gallon on May 5th, 2011. This increase annualizes out to about \$365 million dollars more for the State of Michigan.
- Motor fuel tax collection for Michigan rose 1.49% for the fiscal year ending September 2010.
- Average sales tax per gallon rose an additional 19.93%.
- Michigan ranks in the top six states for total taxes per gallon on gasoline and in the top 9 on diesel fuel.
- Credit card fees on a gallon of gasoline averaged 5 cents per gallon in 2010. This fee is paid by the station to its credit card transaction processor.
- Stations often follow competitors by literally looking out their window and following their price up or down. If you are off your competitor's price by more than 2 cents per gallon it is not unusual to lose sales volume by 20% per hour.
- Sometimes a market will restore to a point of breakeven or profitability. Usually this is in conjunction with a rack increase and a market that has severe negative net margins.
- Gas price and petroleum resources on line:
<http://www.nacsonline.com/gasprices>
<http://www.api.org/statistics>
<http://www.eia.gov>

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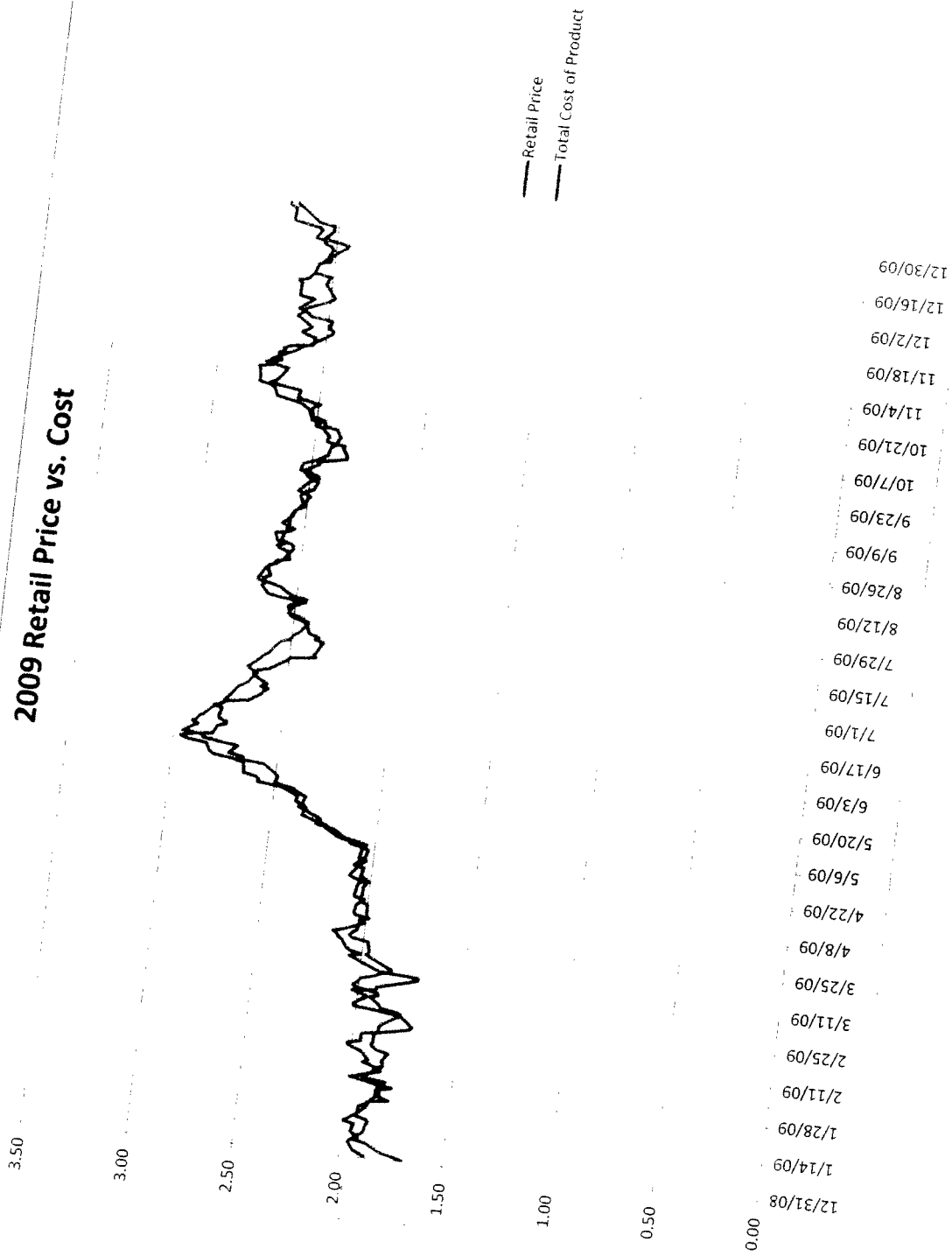
Gasoline Component Totals Comparison				All Non-Tax Costs Are Estimates of Averages			
5/16/2011	Date						
\$ 3.27950	Product Only			Notes:			
	Taxes			Marathon Branded, Lansing Rack, 87 w/Ethanol			
\$ 0.18300	Fed Motor Fuel Tax						
\$ (0.04500)	Fed Ethanol Credit*						
\$ 0.19000	State Motor Fuel Tax			Federal Motor Fuel Tax			
\$ (0.00285)	State Collection Allowance*			Federal Ethanol Blender Credit (Expires 12/31/11)			
\$ 0.21787	Michigan Sales Tax			State Motor Fuel Tax			
\$ 0.54302	Subtotal			State Motor Fuel Tax Collection Allowance (1.5% of State Motor Fuel Tax, 2/3 to wholesaler 1/3 to retailer)			
	Freight, Fees & Handling Subtotal			State Sales Tax (Retail price - State Motor Fuel Tax/17.666)			
\$ 0.02000	Freight						
\$ 0.00100	Fed Lust			Average freight cost			
\$ 0.00171	Fed Environmental			Federal Leaking Underground Storage Tank Regulatory Fee			
\$ 0.00875	Michigan Environmental			Federal Oil Spill Liability Trust Fund Fee			
\$ 0.10740	Cost of Business			State Refined Petroleum Fund Regulatory Fee			
\$ 0.07068	Credit Card Fee			Estimated Average Cost of Business			
\$ 0.20954	Subtotal			Estimated Credit Card Fees (2.5% of retail price, weighted 70%)			
\$ 4.03206	Total Cost of Product						
\$ 4.03900	Retail			Total of product, taxes, freight, fees & handling			
\$ 0.00694	Margin (+/-)			Average Lansing retail price as reported online			
				Retail - TCOP			

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Gasoline Component Summary			Estimates based on 2,500 gallons per day		
2009					
	Date		Daily	Monthly	Annual
\$ 1.745	Product		\$ 4,362.53	\$ 130,875.75	\$ 1,570,509.00
\$ 0.448	Taxes		\$ 1,119.23	\$ 33,576.75	\$ 402,921.00
\$ 0.180	Freight, Fees & Handling		\$ 450.18	\$ 13,505.25	\$ 162,063.00
\$ 2.373	Total Cost		\$ 5,931.93	\$ 177,957.75	\$ 2,135,493.00
\$ 2.355	Retail		\$ 5,887.15	\$ 176,614.50	\$ 2,119,374.00
\$ (0.018)	Margin (+/-)		\$ (44.78)	\$ (1,343.25)	\$ (16,119.00)

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2009 Retail Price vs. Cost



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Gasoline Component Summary			Estimates based on 2,500 gallons per day		
2010			Daily	Monthly	Annual
	Date				
\$ 2.134	Product		\$ 5,333.88	\$ 160,016.25	\$ 1,920,195.00
\$ 0.472	Taxes		\$ 1,180.28	\$ 35,408.25	\$ 424,899.00
\$ 0.188	Freight, Fees & Handling		\$ 469.05	\$ 14,071.50	\$ 168,858.00
\$ 2.793	Total Cost		\$ 6,983.20	\$ 209,496.00	\$ 2,513,952.00
\$ 2.786	Retail		\$ 6,965.90	\$ 208,977.00	\$ 2,507,724.00
\$ (0.007)	Margin (+/-)		\$ (17.30)	\$ (519.00)	\$ (6,228.00)

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2010 Retail Price vs Cost

3.50

3.00

2.50

2.00

1.50

1.00

0.50

— Retail Price

— Total Cost of Product



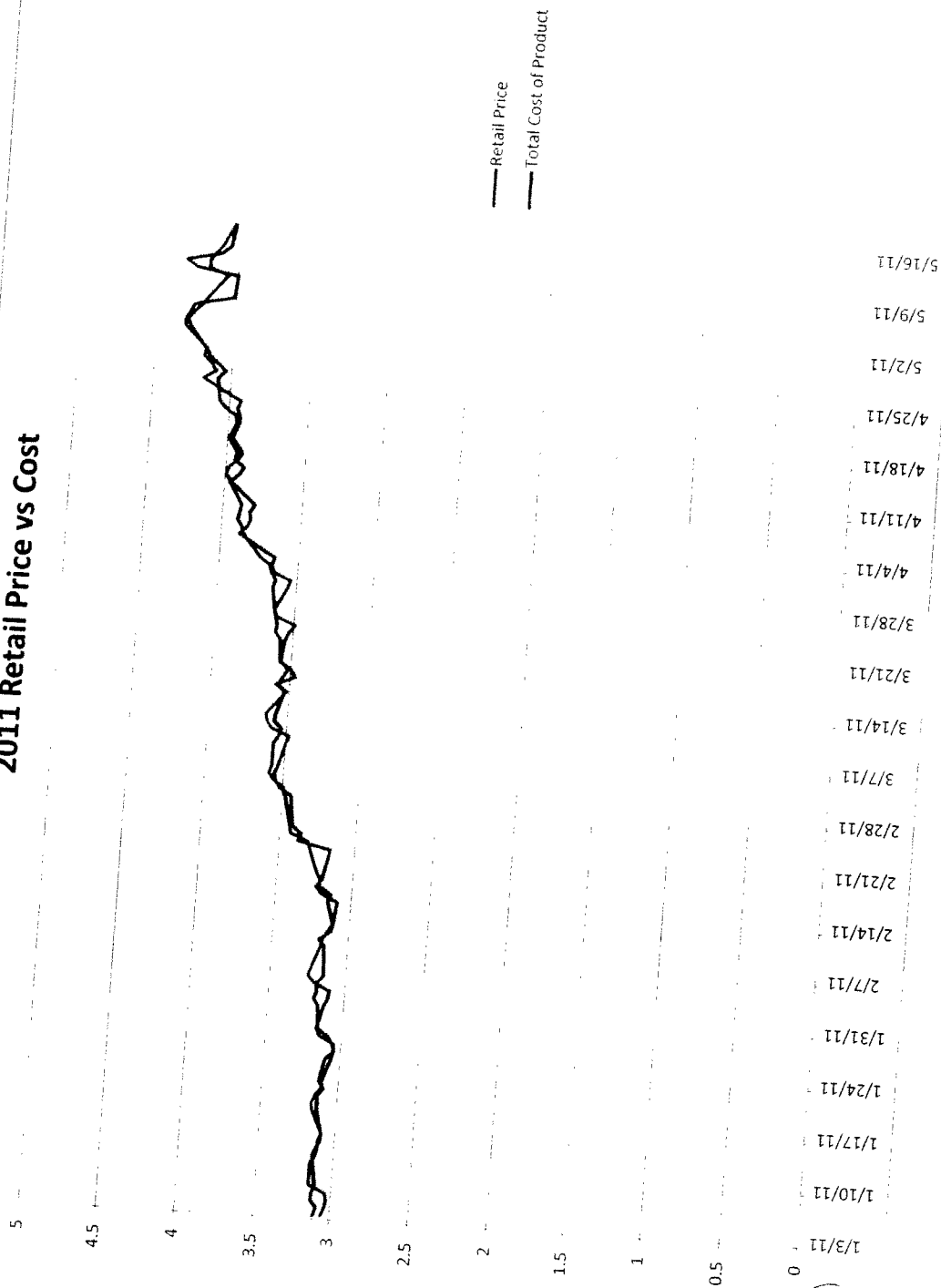
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Gasoline Component Summary		Estimates based on 2,500 gallons per day			
2011					
	Date		Daily	Monthly	Annual
\$ 2.850	Product		\$ 7,126.02	\$ 213,780.72	\$ 2,565,368.62
\$ 0.516	Taxes		\$ 1,289.00	\$ 38,670.01	\$ 464,040.08
\$ 0.201	Freight, Fees & Handling		\$ 502.66	\$ 15,079.93	\$ 180,959.22
\$ 3.567	Total Cost		\$ 8,917.69	\$ 267,530.66	\$ 3,210,367.92
\$ 3.555	Retail		\$ 8,886.54	\$ 266,596.28	\$ 3,199,155.32
\$ (0.012)	Margin (+/-)		\$ (31.15)	\$ (934.38)	\$ (11,212.60)

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2011 Retail Price vs Cost



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